

CLASS IV PERMIT

Criteria for Class IV permits

16.8(1) A Class IV permit shall require docks or hoists to be in compliance with requirements in 16.3(461A,462A), except as provided in 16.9(461A,462A) and 16.10(461A, 462A). Greater offsets may be required for new commercial docks or hoists if needed to minimize boat traffic and congestion that spills over in front of other shoreline property not owned or controlled by the applicant.

16.8(2) A commercial dock on a natural lake may be permitted to extend a maximum of 300 feet from the water's edge. However, the applicant must provide justification for a length greater than 150 feet and demonstrate that there are no appropriate alternatives available.

16.8(3) The maximum number of hoists or slips authorized by a permit for a commercial dock is one hoist or slip for every 10 feet of shoreline. This limit shall not apply where a business operated on the shoreline property primarily involves boat sales, rentals, storage, or other boat services. In calculating the hoist limit, courtesy hoists shall not be counted if they are provided without charge to boaters to temporarily moor their boats while they go ashore to access services at a business on the shoreline property.

16.8(4) A permit for a commercial dock shall not be issued or the permit will include restrictions as needed to prevent uses of the dock that would be incompatible with zoning of the shoreline property from which the dock extends (including special use exceptions or variances recognized by the local governing body). However, a change in local zoning ordinance or termination of a local variance or special use exception shall not automatically be a ground for the department to revoke or refuse to renew a dock permit.

16.8(5) Authorization for roofs or sides on commercial docks or slips may be restricted as needed to minimize adverse visual impact on owners of other property and the public.

16.8(6) Each mooring site (slip) shall be marked by an identifying number or letter, in block style at least 3 inches high, of contrasting color, and located uniformly near the vessel's bow.

Definitions

Boat hoist or lift means a structure placed in the water or below the ordinary high-water mark for boat storage, including platforms for storage of personal watercraft. For the purposes of this chapter, a boat hoist that is designed to store multiple small vessels such as personal watercraft or one-person sailboats shall be treated as a single hoist.

Catwalk means a platform no more than four feet wide installed to provide access from a dock to a moored boat or boat hoist.

Commercial dock means a dock used as part of a business, including a dock extending from residential property if one or more mooring spaces at the dock are rented for a fee. A dock maintenance fee charged by a property owners' association to its members is not a basis to classify a dock as commercial. This definition is not applicable to docks in dock management areas or concession operations administered by the department.

Commission means the natural resource commission.

Department means the department of natural resources.

Director means the director of the department of natural resources or the director's designee.

Dock means a platform-type structure extending from shoreline property over a public water body, including but not limited to platforms that provide access to boats moored on the water body.

Impoundment means a body of water formed by constructing a dam across a waterway.

Public dock means a dock constructed and maintained to provide public access from public land to a water body.

Public land means land that is owned by the state, a city, or a county or land that has been dedicated for public access to a public water body.

Public water body is a water body to which the public has a right of access.

Shoreline property means a parcel of property adjoining (littoral to) a lake or adjoining (riparian to) a river or other navigable stream.

Slip means a mooring space, usually adjacent to a dock, sometimes accessed by a catwalk.

Water body means a river or other stream, a natural lake, an artificial lake or other impoundment, or an excavated pit.

Standard requirements for all docks

16.3(1) Adverse impacts on aquatic ecosystem. All docks, hoists, slips and related structures shall be located, sized, configured, constructed and installed to limit their adverse impacts on the aquatic ecosystem. In areas of sensitive aquatic habitat, docks and hoists shall be located, configured, constructed and installed to minimize harm to aquatic habitat. Other restrictions may be placed on docks that are in a state protected waters area as necessary to protect the natural features of the designated area.

16.3(2) Adverse impacts on public access for recreational use. A dock shall not be configured to enclose an area of a public water body and create a private water area or otherwise adversely affect public recreational use of the water body. Where walking or wading parallel to the shore below the ordinary high-water mark would be physically practical except for the obstruction created by a dock, the dock owner shall not prevent a person from stepping on or over the dock to bypass the obstruction.

16.3(3) Location and offsets. To the extent practical, a dock and boat hoists shall be placed near the center of the shoreline property frontage and installed perpendicular to the shoreline to maximize offsets from neighboring properties. Each dock, hoist, moored vessel and other permitted structure shall be offset a minimum of 5 feet from an adjoining property line and 5 feet from the projection of a line perpendicular from the shoreline at the common boundary with adjoining shoreline property. A minimum gap of 10 feet must be maintained between adjoining docks (including "L" or "T" or catwalk segments), hoists or moored boats. Where projection of a line perpendicular from the shoreline is impractical, it is the intent of this rule that a 10-foot gap be maintained in a manner that is equitable to each adjoining shoreline property owner.

16.3(4) Length. A dock shall not extend farther from the water's edge than the distance necessary for reasonable access to the water body in relation to characteristics of the water body in the vicinity of the dock site and the impacts on the water body and other users. Access to maintain one or more boats in water with a minimum depth of 3 feet shall be considered sufficient access.

16.3(5) Display of 911 address. Each dock owner shall display the 911 address, including the street and city, assigned to the property served by the dock. The owner of a dock authorized by an individual permit shall also display the dock permit number. The information shall be displayed in block letters and numbers at least 1 inch high in a color contrasting with the background, on the water end of the dock, facing away from shore, and shall be plainly visible.

16.3(6) Winter removal. Each dock must be removed from public waters before December 15 of each year and shall not be reinstalled until the following spring unless the removal requirement is waived by a condition of a dock permit or by 16.18(461A,462A).

16.3(7) No enclosure of private docks. Private docks and docks in dock management areas shall not be enclosed by roofs or sides. Hoists may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft.

16.3(8) Materials and flotation specifications. Every new floating structure authorized by this chapter shall use flotation methods and devices of a type constructed of low density, closed-cell rigid plastic foam; high impact polyethylene fiberglass material; wood timbers untreated or treated only with a product approved by the United States Environmental Protection Agency for use in fresh water bodies; or other inert materials to provide flotation. Synthetic (such as plastic or fiberglass) or metal containers not originally manufactured as flotation devices may be used as dock flotation devices if they have been cleaned of any product residue, sealed and watertight, and filled with a closed-cell rigid plastic foam.

16.3(9) Flow of water. All docks shall be constructed and placed in a manner that allows the free flow of water beneath them.

16.3(10) Excavation, fill and aquatic vegetation removal prohibited. No bed material may be excavated or fill placed, and no aquatic vegetation may be removed below the ordinary high-water mark of a water body in association with construction of a dock unless excavation, placement of fill, or aquatic vegetation removal is specifically authorized by a construction permit issued under 571—Chapter 13.

16.3(11) Storage, use, and dispensing of fuel. The storage, use, and dispensing of any fuel on a dock on or over a public water body or adjacent public land shall be in compliance with Iowa Code Chapter 101 and administrative rules that implement Chapter 101.

16.3(12) Electrical service. Any electrical service on or leading to any dock used for storage or dispensing of fuel must comply with the National Electrical Code, latest revision. All electrical service leading to docks shall include ground fault interrupter protection.

16.3(13) Anchoring of river docks. All river docks must be securely anchored to prevent them from becoming floating hazards during times of high river flows. The riparian owner is responsible for dock retrieval and removal when necessary to prevent or remove a navigation hazard.

16.3(14) Access for inspection. A dock, boat hoist, raft, platform, mooring buoy or any other structure on a public water body may be

physically inspected at any time by a representative of the department as needed to determine whether it was placed and maintained in a manner consistent with the requirements in these rules or with a permit issued under these rules.

Duration and transferability of permits; refund of application fees; suspension, modification, or revocation of permits; complaint investigation; property line location

16.17(1) Duration and transferability of dock permits; administrative fee refunds. Each dock permit shall be issued for a term of five years unless a shorter term is needed due to specified circumstances. The administrative fee paid with an application is nonrefundable unless the application is withdrawn before the department incurs administrative expense in investigating the application. A dock permit is not automatically transferable to a new owner of the shoreline property upon request of the new owner. A purchaser of shoreline property who acquires an existing permitted dock in the real estate transaction must request approval for transfer of the permit.

16.17(2) Suspension, modification, or revocation of permits. A dock permit may be modified, suspended, or revoked, in whole or in part, by written notice served in compliance with Iowa Code section 17A.18, if the director determines that the dock is a hazard to other users of the water body, that a violation of any terms or conditions of the permit has occurred, or that continuation of the permit is contrary to the public interest. Such modification, suspension, or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the modification, suspension, or revocation, the reasons for the action, and any corrective or preventative measures to be taken by the permittee to bring the dock, structure, or activity into compliance. Within 30 days following receipt of the notice of a revocation or modification, or during the course of a suspension, the permittee may request a hearing in order to present information demonstrating that the alleged violation did not occur or that required corrective and preventative measures have been taken, or to present any other information relevant to a decision as to whether the permit should be reinstated, modified, or revoked. The hearing shall be conducted as prescribed by 571—Chapter 7. After completion of the hearing, a final decision will be made concerning the status of the permit. In the event that no hearing is requested, notices of modification and revocation shall remain in effect and suspended permits shall be reinstated, modified, or revoked. These procedures are not intended to limit the authority of a department law enforcement officer to issue a citation for a violation of a provision of Iowa Code Chapter 461A or 462A, or a provision in this chapter.

16.17(3) Investigation of complaints. Any person adversely affected by a permitted dock or associated boat hoist may request, in writing, an investigation and a hearing to reconsider the permit. Requests for hearings shall specify adverse effects on the complainant and shall be made in accordance with procedures described in 571—Chapter 7.

16.17(4) Determining property boundaries. An applicant for a permit, a permittee, and an owner of shoreline property adjoining property of an applicant or permittee are responsible for determining the accurate location of common boundaries of their respective properties.

16.18 Exemptions from winter removal requirement. This rule provides for exemptions from the general requirement in Iowa Code section 462A.27 that nonpermanent structures be removed on or before December 15 of each year. Docks and other structures subject to destruction or damage by ice movement must be removed.

Where a dock may be left in ice without damage to the dock, it must have reflective material visible from all directions to operators of snowmobiles, or other motorized machines, or wind-propelled vessels lawfully operated on the frozen surface of the water body. Generally, ice damage is greatest on Iowa's rivers and natural lakes. Docks must be removed by December 15 of each year unless they have the required reflective materials and are specifically exempted by a condition of a dock permit or located in one of the areas listed as follows: artificial lakes; Upper Gar Lake; canals off West Okoboji Lake; Okoboji Harbor; Lazy Lagoon portion of Triboji dock management area; Smith's Bay on West Okoboji Lake; area between the trestle and U.S. Highway 71 bridges on Okoboji lakes; Templar Park on Big Spirit Lake; Venetian Village Canal and Harbourage Inlet on Clear Lake; Casino Bay of Storm Lake; Black Hawk Marina at Black Hawk Lake, and canals off Lake Manawa and Carter Lake. A permit shall not authorize an exception from the winter removal requirement unless the applicant provides adequate documentation that the dock will not be damaged by normal ice movement.

16.19 General conditions of all dock permits. All dock permits, unless specifically excepted by another provision of this chapter, shall include the following conditions of approval:

16.19(1) All activities and structures authorized by a dock permit must comply with the requirements of the permit, and the permittee shall maintain the structure or work authorized by the permit.

16.19(2) The permit creates no interests, personal or real, in the real estate below the ordinary high water line nor does it relieve the requirement to obtain federal or local assent authorization when required by law for such activity. The permit does not authorize the permittee to prevent the public from using areas of the water body adjacent to the permitted structure. However, a lawfully permitted private dock or commercial dock is property of the permittee. Use of the dock is reserved to the permittee and the permittee's invitees, subject to the public right of passage stated in 16.3(2).

16.19(3) A permit is valid only while the permittee has the necessary permissions to use the adjoining shoreline property from which the dock projects.

16.19(4) The permittee shall not charge a fee for use of the dock or associated structure unless: the permit is for a commercial dock; the fee is expressly authorized by the permit; or the permittee is a homeowners association and the fee is for recovery of expenses incurred in providing access to association members.

16.20 Permit criteria for rafts, platforms, or other structures. A raft, platform, or other structure maintained on a public water body requires authorization in a permit. The raft, platform, or other structure may not be placed more than 250 feet from the shoreline, and shall be equipped with reflectors that are visible from approaching boats and is subject to the winter removal requirement unless specifically exempted by the permit.

Exceptions for renewal of Class IV permits for existing docks

16.9 Exceptions for renewal of Class III and Class IV permits for existing docks. This rule provides certain exceptions to length limits, hoist limits and platform size limits for docks and hoists that lawfully existed before the effective date of the limits. Criteria for exceptions to offset requirements are separately listed in subrule 16.9(2).

16.9(1) Class III and Class IV permits shall include exceptions as needed to provide continuing authorization for docks and hoists that

were lawfully installed and maintained before the effective date of certain requirements as set forth in this rule. Permits shall include exceptions to the length limits in 16.7(2) and 16.8(2) for docks up to 300 feet long that were lawfully installed and maintained before the effective date of the length limits. Permits shall include exceptions to the hoist limit in 16.7(3) and 16.8(3), and to the platform size limit in 16.7(4) for docks and hoists that were lawfully installed and maintained before the effective date of the limits.

16.9(2) An exception to the offset requirements in 16.3(3) shall be granted if the applicant can satisfy all three of the following criteria:

a. The lack of offset on one side of the property is compensated for by a larger offset on the other side of the property;

b. The applicant provides the department with a copy of the written consent of each affected adjoining property owner or an affidavit attesting that the affected adjacent property owner named in the affidavit has verbally given the applicant consent for the requested exception, or provides adequate documentation that the adjoining shoreline parcel is burdened by restrictive covenants, easements, or other valid use restrictions which impose on the owner of the parcel an obligation to tolerate docks and hoists that would otherwise violate the offset or gap requirements in 16.3(3); and

c. The applicant demonstrates that no other dock or hoist configuration is physically practical.

Exceptions to Class IV permits for new structures

16.10 Exceptions to Class III and Class IV permits for new structures. An application for a permit for a new dock, hoist or slip may include a request for an exception under this rule from certain limits or requirements imposed by these rules.

16.10(1) Exceptions to length limits, hoist limits or platform size limits. For proposed new docks, slips or hoists, Class III and Class IV permits may include exceptions to the length limit in 16.7(2), the hoist limit in 16.7(3) and 16.8(3), and the platform size limit in 16.7(4) if the applicant justifies the need for an exception and proposes a configuration of dock(s) and hoists that minimizes adverse impacts on the water body and other users.

16.10(2) Factors for considering requests for exceptions. In determining whether to allow a requested exception to a length limit, hoist limit or platform size limit, in whole or in part, the department shall consider each of the following factors:

a. The extent to which the request exceeds the applicable limit;

b. The extent to which the requested exception or a lesser exception would cause adverse impacts on the aquatic ecosystem or use of adjoining public or private property;

c. The extent to which the requested use would provide some type of access by members of the public;

d. Whether living units to be benefited by an exception were constructed before July 1, 2006;

e. Whether denial of an exception would result in loss of property value that was based on a reasonable expectation of water access including storage of boats on the water body;

f. Whether the exception was authorized by a previous permit;

g. Whether the exception includes space for vessels without motors including paddle-only vessels and single-hulled sailboats less than 12 feet long.

16.10(3) Exceptions from offset requirements. An exception to the offset requirements in 16.3(3) may be granted under the circumstances listed in 16.9(461A,462A).

16.12 Initial decision and right of appeal. The decision on an application for a Class II, Class III or Class IV permit shall be made by the department's district law enforcement supervisor or designee except that the district law enforcement supervisor shall issue an initial decision in the form of a permit or a permit denial on a request for an exception under 16.10(461A,462A). If the district law enforcement supervisor decides to deny the permit or to issue a permit with specific conditions that deny the application in part, the written decision shall include notice of the applicant's right to request a contested case under 571—Chapter 7. If a request for an exception under 16.10(461A,462A) is disapproved by the district law enforcement supervisor, the applicant's request for a contested case may include a request for a variance or waiver under the provisions of Iowa Code section 17A.9A and 571—Chapter 11.

Application forms and administrative fees

16.13(1) The applicant for a Class II, Class III or Class IV permit shall submit to the department a completed application on the applicable DNR dock permit application form. If the applicant for a Class III or Class IV permit is not the owner of the shoreline property from which the dock extends, the applicant shall identify the contractual relationship between the applicant and each property owner and shall submit as part of the application the written consent from each owner. The application form shall be accompanied by accurate plans and drawings as specified on the form. The drawings shall accurately show the size and location of each boat hoist, slip, platform, catwalk, buoy, or other structure to be maintained in front of the shoreline property. Docks in front of nonadjoining shoreline properties on the same water body owned by the same person or legal entity may be included in one application. An application for renewal of a permit for an existing dock and hoists must specifically describe each requested modification. The applicant shall submit an administrative fee with the application. The completed application form and payment shall be submitted to the department's district law enforcement office in the district where the proposed dock is located. The application will be assigned to a conservation officer to investigate.

16.13(2) The Class III permit application fee shall be \$125 for one or more individual private docks. The Class IV permit application fee shall be \$250 for one or more commercial docks. A Class III permittee shall pay an annual administrative fee of \$50 for each hoist or slip in excess of a total of four hoists or slips. A Class IV permittee shall pay an annual administrative fee of \$50 for each hoist or slip in excess of a total of six hoists or slips, except for each hoist or slip designated in the permit as courtesy mooring for customers and affixed with a sign identifying it as a courtesy hoist or slip. The hoist/slip fee shall be due on March 1 of each year or whenever a permit is modified by adding a hoist or slip. Any fees owed to the department shall be paid in full prior to the installation of any portion of an individual private dock or commercial dock and before a boat is placed in a hoist or slip. The department may waive the permit application fee if the application is for a minor modification of an existing permit without an extension of the term of the permit.